

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

734Q0472

SENATE COMMERCE ENGROSSED NO. **SB 98** - 2/12/2009

Introduced by: Senators Abdallah, Ahlers, Fryslie, Miles, Olson (Russell), and Peterson and
Representatives Gosch, Feickert, Kirkeby, Kirschman, Lange, Lederman,
Pitts, and Solberg

1 FOR AN ACT ENTITLED, An Act to revise the minimum amount required for reporting
2 damage to a motor vehicle.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-51.7 be amended to read as follows:

5 32-3-51.7. Each certificate of title issued by the department shall contain the following
6 phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This
7 information is available upon written request from the Department of Revenue and Regulation,
8 Division of Motor Vehicles. Each certificate of title shall also contain on ~~its~~ the title's front a
9 statement as to whether previous damage disclosure statements as provided by § 32-3-51.8
10 indicate the motor vehicle had been damaged at one time in excess of ~~five~~ eight thousand dollars
11 ~~as provided by § 32-3-51.8~~ or forty percent of the motor vehicle's clean retail fair market value,
12 immediately prior to sustaining damage as determined by the most current Midwest Edition of
13 the National Automobile Dealer's Association (NADA) Guide, using all options, additions, and
14 deductions, whichever is less. The NADA Guide may be available through a public library,



1 insurance agent, auto dealer, or online at www.nadaguides.com.

2 Section 2. That § 32-3-51.8 be amended to read as follows:

3 32-3-51.8. Upon the sale, transfer, trade-in, or titling of a motor vehicle, the seller,
4 transferor, trader, or person wishing to title in South Dakota shall submit an accurately
5 completed damage disclosure statement. The completed damage disclosure statement may be
6 on the back of the certificate of title or on a separate document that has been approved for use
7 by the department. Except as otherwise provided by this section, no certificate of title may be
8 issued by the department unless the damage disclosure statement accompanies the application.

9 It is a Class 1 misdemeanor to intentionally falsify any information on the damage disclosure
10 statement. No person or dealer is liable to a subsequent owner of a vehicle because a prior
11 owner of the vehicle failed to disclose that the vehicle had previously been damaged and
12 repaired. This section does not apply to any motor vehicle more than six model years old as
13 calculated from the first day of January of the designated model year or with a gross vehicle
14 weight rating of more than sixteen thousand pounds and does not apply if a rebuilt title or
15 junking certificate is sought.

16 This section applies to all other motor vehicles, but only damage in excess of ~~five~~ eight
17 thousand dollars or forty percent of the motor vehicle's clean fair market retail value
18 immediately prior to sustaining damage, as determined by the then current Midwest Edition of
19 the National Automobile Dealer's Association (NADA) Guide, using all options, additions, and
20 deductions, whichever is less shall be disclosed in the statement. If the motor vehicle has
21 incurred damages more than once, only those damages that occurred at one time are considered
22 in determining whether the damages exceeded ~~five~~ eight thousand dollars or forty percent of its
23 clean retail fair market value immediately prior to sustaining damage, as determined by the most
24 current Midwest Edition of the NADA Guide, whichever is less.

Section 3. That § 32-3-51.14 be amended to read as follows:

32-3-51.14. The department shall prescribe, pursuant to chapter 1-26, the format for the damage disclosure statement provided by § 32-3-51.8. An area for a damage disclosure statement shall appear on the back of each certificate of title issued by the department. The department may also approve separate documents on which a damage disclosure statement may be submitted. The damage disclosure statement form shall indicate whether the motor vehicle has been damaged such that it cost more than ~~five~~ eight thousand dollars or forty percent of its clean retail fair market value immediately prior to sustaining damage as provided by §§ 32-3-51.7 and 32-3-51.8, whichever is less, to repair to its predamaged condition and any other damage information the department deems appropriate. If a separate document from the certificate of title contains the damage disclosure statement, the document shall also require the following information: year, make, model, and vehicle identification number of the motor vehicle.

Section 4. That § 32-3-51.15 be amended to read as follows:

32-3-51.15. The dollar amount of damage to a motor vehicle required to be disclosed pursuant to § 32-3-51.8 shall include the costs necessary to return the damaged motor vehicle to its predamaged condition. Such costs include parts, labor, paint, and frame work done on the damaged motor vehicle. If the retail value of labor has not been determined by a purchase in the ordinary course of business (for example, the labor is performed by the owner of the vehicle), the retail value of the labor is presumed to be the product of the repair time, as provided in a generally accepted autobody repair flat rate manual, multiplied by ~~thirty-five~~ forty-five dollars.